the routing tables resident in the switch, as Ameritech traffic would be, but would instead be blocked. Thus, CLECs and their customers will be denied the efficiencies of dynamic routing inherent in Ameritech's existing interoffice transport system. As Mr. Sherry testified, Ameritech's latest version of transport gives rise to the same problems for new entrants -- the same design and engineering barriers -- as its previous "Shared Carrier Transport" proposals. AT&T Ex. 9.0, p. 9.

The Michigan Public Service Commission considered this same proposal and concluded that it did not satisfy the requirements of §271 and the FCC rules. See Opinion and Order dated February 28, 1997 in Case Nos. U-l 115 l/U-l 1152 (consolidated). The MPSC stated:

> "The Commission finds that Ameritech Michigan's modifications and new proposals should be rejected. . . . Whether it makes economic sense to request a dedicated line rather than shared transport is a judgment that the competing carrier should be allowed to make." (Opinion and Order, p. 8.)

Indeed, Ameritech's supplemental rebuttal testimony made it perfectly clear that the Shared Company Transport proposal is not even intended to conform to FCC rules. Discussing ULS and common transport, and their use in a ULS-based "platform," Mr. Gebhardt testified as follows:

> Q. The parties continue to claim that Ameritech Illinois' position is precluded by either the FCC's order in Docket 96-98 or this Commission's order in the Wholesale/Resale docket, Do you agree?
>
> A No. I believe that neither this Commission, the FCC, nor the parties had any real understanding of the "platform" plan and unbundled local switching at the time those two orders were adopted. Amer. Ex. 1 .5, p. 3 (Gebhardt Supplemental Rebuttal Testimony).

In other words, Ameritech does not even pretend that its transport proposal conforms with the rules of this Commission and the FCC; **rather,** Ameritech simply continues to assert that those rules are **uninformed** or wrong. **Ameritech** plainly intends to reargue those rules **again** and again, and to flaunt them unless and until compelled to conform. Amer. Ex. 1.5, p. 15 (Gebhardt Supplemental Rebuttal Testimony). AT&T submits that, as before, **Ameritech** has **failed** to provide unbundled local transport as required and that it cannot be found to have complied with **§271** and the FCC rules.

M. AMERITECH CONTINUES TO REFUSE TO PROVIDE PROPERLY UNBUNDLED LOCAL SWITCHING ("ULS")

Section **271** requires Ameritech to provide local switching unbundled from local loop facilities and local transport, **47** U.S.C. **§271(c)(2)(B)(vi).** As the TLEC, Ameritech must provide nondiscriminatory access to local switching as an unbundled network element. **47** C.F.R **§51.319(c). The Proposed** Order found that **"[t]here** are various problems with Ameritech's compliance with this **checklist** item," and as a result, it **"has** not been met." **Notwithstanding** Ameritech's attempts at superficial changes to its offerings, nothing has changed.

A. AMERITECH IMPERMISSIBLY RESTRICTS THE RIGHT OF THE ULS PURCHASER TO PROVIDE AND CHARGE FOR ACCESS SERVICES.

Ameritech's previous proposal reflected a contrived scheme to retain terminating access charges for itself even when the call was to a **CLEC's** end-user customer: **Ameritech** announced that in those circumstances, **it** would not charge the **ULS-**subscribing CLEC for terminating access **traffic,** and on that basis, **Ameritech** contended

that it was entitled to charge the IXC for access and to retain the access revenues for itself, Amer. Ex. 1.1, pp. 51-52 (Gebhardt Rebuttal Testimony). The Proposed Order found that scheme to be entirely impermissible:

> "Ameritech's proposed ULS service should not require carriers to pay any originating and/or terminating access charges to Ameritech. Ameritech is simply not entitled to continue to collect interstate access charges since it is not providing access to the end user through unbundled local switching. Such collection directly contradicts the [sic] our Wholesale/Platform Order in Docket 95-0458. Proposed Order, p. 43.

Ameritech has not fundamentally changed the ULS proposal rejected by the Proposed Order. Consequently, the most recent proposal should be rejected just as its last proposal was for it, too, represents an impermissible attempt by Ameritech to retain access revenues which the FCC has determined belong to the CLEC subscribing to the ULS.

Ameritech's latest position is that the CLEC purchaser of the ULS does not always acquire the right to provide local switching to other carriers that want to connect calls to the CLEC's end user served through the ULS. Ameritech instead would tie the right to provide and charge for access services to the CLEC's purchase of dedicated transport between the IXC's point of presence and the ULS. Thus, Ameritech proposes that unless the CLEC purchaser of ULS has also purchased a dedicated trunk terminating on a dedicated ULS trunk port -- i.e., unless the CLEC has purchased both a line port and a separate dedicated trunk port on the ULS -- then Ameritech, and not the CLEC subscriber to the ULS, is entitled to charge other carriers for originating or terminating access. In this way, Ameritech would restrict the right of a CLEC purchaser of ULS to charge for the exchange access functionality of that ULS.

There is a clear tie between Ameritech's ULS proposal and its shared transport proposal, discussed above. Ameritech employs the notion that the dedicated trunk port network element is distinct from the ULS network element, and then uses it to link its Shared Company Transport proposal to its position on exchange access as well as local usage. Tn essence, Ameritech would require that a CLEC purchase both unbundled local switching and dedicated transport if it were to provide local usage or exchange access. But that underlying premise is false. As shown above, the Act and FCC rules clearly provide that the traffic of a CLEC purchasing unbundled local transport is to be routed over transport facilities, including shared transport, which are also used to carry Ameritech traffic. Thus, Ameritech's basic assertion that a ULS subscriber must separately buy a dedicated trunk/trunk port before it can charge for the local switching portion of exchange access means that the CLEC traffic must be routed over dedicated transport facilities that are discrete from Ameritech's own transport facilities. Such a concept would preclude the joint provision of exchange access i.e., where one party (a competitive access provider, the ILEC or a CLEC) provides the transport and another provides the local switching. This proposal arrangement by Ameritech is plainly inconsistent with the fact that it is the IXC who selects the transport provider and the end user customer who selects the local switching provider.

In any event, Ameritech's latest efforts to keep access revenues for itself are flatly inconsistent with FCC rules. The First Report and Order specified that,

> "where new entrants purchase access to unbundled network elements to provide exchange access services, whether or not they are also offering toll services through such elements, the new entrants may assess exchange access charges to IXCs originating or

> terminating toll calls on those elements. In these circumstances, incumbent LECs may not assess exchange access charges to such IXCs because the new entrants, rather than the incumbents, will be providing exchange access services, and to allow otherwise would permit incumbent LECs to receive compensation in excess of network costs in violation of the pricing standard in section 252(d)." First Report and Order, ¶363, n. 772.

Further, in response to questions about obtaining unbundled local switching for the purpose of providing access service, the FCC expressly clarified that,

> "... a -carrier that purchases the unbundled local switching element to Serve an end user effectively obtains the exclusive right to provide all features, functions, and capabilities of the switch, including switching for exchange access and local exchange service for that end user. A practical consequence of this determination is that the carrier that purchases the local switching element is likely to provide all available services requested by the customer served by that switching element, including switching for local exchange and exchange access. (Order on Reconsideration, ¶11).

As the Proposed Order recognized, this Commission similarly ruled in the Wholesale/Platform proceeding that carriers purchasing the unbundled switch are entitled to provide access services and receive the associated revenues:

> We also reject Ameritech's position that the purchasing carrier should not retain the revenues for exchange access provided through the leased network elements. As Staff observes, once the incumbent LEC has received the cost-based price for the LSP, the purchasing carrier is entitled to the use of the network element and all revenues for services therefrom.

Wholesale/Platform Order (June 26, 1996), p. 65.

Contrary to Ameritech's claim that a CLEC has the right to charge for access through the ULS switch only if it has separately purchased a dedicated trunk port, the FCC has clearly held that the ULS network element which a CLEC purchases includes

"the line-side and trunk-side facilities plus the features, functions and capabilities of the switch." First Report and Order, ¶412. Moreover, the FCC! clearly contemplated that in an unbundled network element environment, trunk ports would be shared, not dedicated, facilities.

> "We conclude that a combination of a flat-rated charge for line ports, which are dedicated to a single new entrant, and either a flat rate or per-minute usage charge for the switching matrix and for trunk ports, which constitute shared facilities, best reflects the way costs for unbundled local switching is incurred and is therefore reasonable," First Report and Order, ¶810.[11]

Similarly, in its First Order on Reconsideration, the FCC included trunk ports in its list of "traffic sensitive components of the local switching element," id., ¶6, once again indicating that trunk port facilities could be used in common, or shared, by multiple carriers and paid for on a shared basis.

Once again, Ameritech does not even pretend that its ULS proposal is consistent with the FCC's rules. Instead, it relies on its assertion that those rules are wrong and its hope that someday, the FCC will see things its way. Mr. Gebhardt testified:

> "It is my belief that the FCC will recognize these inconsistencies on reconsideration and clarify the fact that the unbundled local switching network element cannot include 'shared' trunk ports without violating the plain requirements of the Act." Amer. Ex. 1.5. p. 18 (Gebhardt Supplemental Rebuttal).

[11] Ameritech claims that ¶810 reflects "a certain amount of ambiguity." Amer. Ex. 1.4, p. 16 (Gebhardt Supplemental Direct). But the "ambiguity" is created by reason of Ameritech's misdefinition of shared transport. "[A] definition of unbundled local switching that includes shared trunk ports would effectively fail to unbundle local switching fiom transport, and would not be in conformance with the requirements of the Act." (Id.) But the FCC's definition of unbundled local switching clearly does include shared trunk ports. Ameritech is trying to use the requirement that "local witching [be] unbuudled from transport" as a shield to protect itself from competition, whereas Congress intended it as a sword to free consumers from the shackles of its historic monopoly over local networks.

But Ameritech's mere hope -- that one day the FCC, this Commission, the Commission Staff, and every other party to this proceeding will all recognize that they are wrong and Ameritech is right -- does not constitute checklist compliance. Plainly Ameritech is not in compliance with this Commission's order in the Wholesale/Platform proceeding, in addition to the FCC's First Report and Order, and it continues to refuse to provide access to local switching as an unbundled network element.

B. AMERITECH HAS NOT DEMONSTRATED BY CLEAR AND CONVINCING EVIDENCE THAT IT HAS PROVIDED CUSTOMIZED ROUTING OF OPERATOR SERVICES/DIRECTORY ASSISTANCE TRAFFIC TO THE EXTENT SUCH ROUTING IS TECHNICALLY FEASIBLE.

The FCC rules set forth a specific standard of proof applicable to the issue of customized routing. In the First Report and Order, the Commission ordered ILECs "to the extent technically feasible, to provide customized routing, which would include such routing to a competitor's operator services or directory assistance platform." First Report and Order, ¶536; see also ¶412. The only limitation on Ameritech's obligation to provide customized routing is technical feasibility.

The FCC recognized that limitation because there are some switches that may have limitations which could make it technically infeasible to provide customized routing But the FCC was very careful not to allow ILECs to abuse this limitation to evade their fundamental obligation to provide customized routing. The FCC thus required ILECs seeking refuge in the limitation to prove it with specificity.

> "[C]ustomized routing, which permits requesting carriers to designate the particular outgoing trunks that will carry certain classes of traffic originating from the competing provider's customers, is technically feasible in many LEC switches. . . . We recognize the ability of an incumbent LEC to provide customized

> routing to a requesting carrier will depend *on* the capability of the particular switch in question. Thus, our requirement that incumbent LECs provide customized routing as part of the 'functionality' of the local switching element applies, by definition, only to those switches that are capable of performing customized routing. An incumbent LEC must Drove to the state commission that customized routing in a particular switch is not technically feasible." Pint Report and Order ¶418 (emphasis added).

Not only is an ILEC obligated to prove technical infeasibility of customized routing "in a particular switch"; it is also obligated to prove technical infeasibility "by clear and convincing evidence." 47 C.F.R. 951.315(e). Further, the definition of "technical infeasibility" does not turn on questions of economics or accounting, but rather on "technical or operational concerns that prevent the fulfillment of the request." Id. §51 (definitions). Thus, the Commission has recognized that an ILEC is required to make modifications to its network to accommodate new entrants and the requirements of competition:

> "The term feasible'implies that . . . providing access to a LEC network element may be feasible at a particular point even if such . . . access requires a novel use of, or some modification to, incumbent LEC equipment. This interpret&on is consistent with the fact that incumbent LEC networks were not designed to accommodate third-party . . . use of network elements at all *or* even *most* points *within* the network. If incumbent LECs were not required, at least to some extent, to adapt their facilities to . . . use by other carriers, the purposes of sections 25 1 (c)(2) and 25 l(c)(3) would be frustrated." First Report and Order, ¶202.

It is therefore not sufficient for Ameritech to claim merely that *a* request for customized routing of OS/DA traffic will require development or network modifications. Instead, Ameritech must prove to this Commission by the high standard of clear and convincing evidence that it cannot be done.

Against this strict standard of proof, Ameritech's showing fails. Because Ameritech has accused AT&T of failing to distinguish between the ULS environment and resale environment in treating this issue Amer. Ex 10.1, pp. 3-4 (Kocher Supplemental Rebuttal Testimony), we address those environments separately.

(1) Customized Routing in the ULS Environment

Ameritech and AT&T agree that there is an inconsistency in the Proposed Order on the issue of customized routing of OS/DA traffic. Thus, at page 42 of the Proposed Order, it states,

> "... Ameritech's ULS offering does not include the customized routing of operator services and director assistance ("OS/DA") which is required to be provided as part of unbundled local switching. . . . Before Ameritech can be deemed to have met the checklist item for unbundled local switching, it must make available customized routing of the ULS-purchasing carrier's OS/DA traffic as a standard offering." Proposed Order, p. 44.

Later, however, (in the section discussing resale) the Proposed Order states:

> "... Ameritech has determined that selective routing, when requested in the context of ULS, is technically feasible in existing Ameritech switches. Thus, Ameritech no longer will require ULS purchasers that request selective routing of OS/DA traffic to their own OS/DA platform (or the platform of another provider) to submit a BFR; such selective routing will be offered on a standard tariff basis when such requests fall within the normal scope of requiring the use of no more than 25 line class codes."

In its supplemental direct testimony, Ameritech clarified that its "offer to provide customized routing on a standard basis applies to all purchasers of ULS making normal requests for customized routing involving 25 or fewer lime class codes. In instances where the use of more than 25 line class codes is requested, such requests will continue to be

handled through the BFR process." Amer. Ex. 1.4, p. 23 (Gebhardt Supplemental Direct Testimony).

Ameritech's offer is less than it appears to be, however. First, despite Ameritech's claim, it has already told AT&T that it will not provide customized routing in a ULS environment at 17 different switches, many of them at strategic locations in Chicago. Amer. Ex.10.1, Att. 2 (Kocher Supplemental Rebuttal Testimony). Moreover, Ameritech has offered no explanation -- much less "clear and convincing" evidence -- for this assertion. Indeed, its claim of technical infeasibility at these 17 switches is curious in light of the fact that Arneritech admits that customized routing of OS/DA traffic is technically identical to the customized routing inherent in its Shared Carrier Transport and Shared Company Transport proposals. Amer. Ex. 10.1, p. 8 (Kocher Supplemental Rebuttal Testimony). If Ameritech cannot provide customized routing of OS/DA traffic at these switches how, it must be asked, did it intend to implement its transport proposal?

Moreover, Ameritech states that its "planning assumption is that less than 25 line class codes are rquired per ULS customer," Amer. Ex. 10.1, p. 4 (Kocher Supplemental Rebuttal Testimony), but it still has not provided a basis for that claim. Mr. Sherry, to the contrary, recited AT&T's experience with a Bell South switch that has led AT&T to believe that it will require more than 25 LCCs if AT&T makes a robust service offering (i.e., including significant feature offerings), AT&T Ex. 9.0, p. 25. (Sherry Supplemental Reply Testimony). Mr. Sherry testified that "requests that would use 25 or fewer LCCs will rarely, if ever, be made."

> "For all practical purposes, Ameritech's position would require AT&T to handle the entire issue of customized routing for OS/DA

traffic through the BFR process." AT&T Ex. 9.0, p. 25 (Sherry Supplemental Reply Testimony).

Thus, Ameritech's "standard" OS/DA routing offer (fix fewer than 25 LCC's) is unlikely to be applicable, and Ameritech's offer amounts to little more than a commitment to submit a CLEC's request for such customized routing to the BFR process.

But the BFR process has been strikingly ineffectual. The evidence shows that AT&T issued its original BFR for customized routing of OS/DA traffic to Ameritech on December 24, 1996. The parties exchanged at least 13 written communications on this BFR and spent many hours discussing AT&T's request; and yet, it took until April 3, 1997 for Ameritech to identify the switches at which, it claims, customized routing is technically infeasible. And Ameritech has never provided any information that justifies that claim, despite AT&T's requests for that information.

Given this history, Ameritech's offer to process requests for customized routing of OS/DA traffic in a ULS environment rings hollow. Certainly, Ameritech's unilateral requirement that, for all practical purposes, all such requests be submitted through the cumbersome BFR process remains an unreasonable restriction on CLEC access to this network element.

(2) Customized Routing in the Resale Environment

There is yet to be any local service competition in Illinois based on the "platform" or the use of unbundled network elements. As a result of the barriers erected by Ameritech, the limited entry that has occurred has been largely limited to total service resale. But the restrictions that Ameritech has placed on a CLEC's access to customized

routing under total services resale are even more unreasonable than under the (currently hypothetical) ULS.

In a resale environment, Ameritech apparently expects to handle all requests for customized routing of OS/DA routing on a BFR basis. The purported justification for this restriction on CLECs is Ameritech's claim that selectively routing OS/DA traffic under resale would require all 400-700 existing line class codes used in Ameritech's switches to be duplicated, and as a result, the capacity of the switch would likely be exhausted.

Ameritech still has not supported its claim with clear and convincing, switch-specific evidence, as required by the FCC rules. Instead, it tries to just@ this restriction on the basis of an assertion that is both conclusory and speculative:

> "Because AT&T requests that Ameritech Illinois offer this capability for every service that Ameritech Illinois provides and because other carriers will likely request the same type of flexibility as AT&T, it is highly likely that demand could outstrip the supply of line class codes, particularly as multiple carriers request selective routing of OS/DA traffic in the context of resale. Amer. Ex. 10.1, pp. 4-5 (Kocher Supplemental Rebuttal Testimony).

Ameritech's generalization does not meet the standard of proof required by the FCC rules; indeed, it is neither "clear" nor "convincing." Ameritech asserts that AT&T has asked for this capability "for every service that Ameritech . . . provides," It is true that AT&T requested in a January 7, 1997 letter that Ameritech perform its analysis of LCC capacities using that assumption, but Ameritech never revealed the implications of the assumption until after the process was concluded. In any event, it is nevertheless true that many of an ILEC's line class codes are used for services that a CLEC would not offer at all, such as LCCs for party-line services, payphone services, ISDN services, INWATS and OUTWATS services, etc. AT&T Ex. 9.0, p. 27. (Sherry Supplemental Reply Testimony).

Further, it is clear that Ameritech preordained the results of its assessment of switch capacity. Under the assumption that "AT&T plans to offer its customers every service which Ameritech currently offers its own customers," Ameritech had the analysis performed assuming that it would be necessary to duplicate every existing line class code currently used in its switches in order to accommodate AT&T's request with respect to resale service." Amer. Ex. 10.1, Attachment 3 (Kocher Supplemental Rebuttal Testimony). But Ameritech knew that assumption was false. As AT&T witness Sherry testified, many ILEC line class codes are used for non-service-related items such as official lines, testlines, and lines used to connect to the ILEC's own service platforms. T Ex. 9.0, p. 26 (Sherry Supplemental Rebuttal Testimony). A CLEC would not need to duplicate these line class codes, as Ameritech is well aware.

Additionally, while Ameritech bases its position on its prediction that other CLECs would "likely request the same type of flexibility as AT&T" so that "demand could outstrip the supply of line class codes" Amer. Ex. 10. I, p. 4 (Kocher Supplemental Rebuttal *Testimony)* (emphasis added), the fact is, as AT&T witness Sherry testified, "it is very clear that not all CLECs do or will seek customized routing for OS/DA traffic because they will not offer OS/DA services on their own platforms."

> "Ameritech should not be able to avoid its obligation to make available customized routing of the CLEC's OS/DA traffic by conjuring up a hypothetical, but wholly unrealistic set of circumstances that might threaten to exhaust the resources of its switches." AT&T Ex. 9.0, p. 27 (Sherry Supplemental Reply Testimony). (Emphasis supplied).

Moreover, Ameritech has offered no switch-specific evidence, much less clear and convincing evidence. Although it says that *the number of line class codes being used by

Ameritech . . . varies widely, ranging from a high of 1133 to a low of 27," it has never provided any information as to which switches use what number of line class codes and how that figure compares to the line class code capacity of the switch. Indeed, even though Ameritech trumpets that the 4-S month BFR process "is working precisely as designed," the fact is that Ameritech has not identified the "problem" switches, despite AT&T's requests that it do so. Specifically, a close examination of the correspondence attached to Mr. Kocher's testimony shows that all Ameritech has provided is a list of switches which it claims are "resale incapable" -- based on the assumptions that Ameritech clearly knew to be erroneous. If Ameritech had given AT&T what it has been requesting all along, the parties could have mapped Ameritech's actual LCCs against AT&T's actual needs to make a meaningful assessment of how many LCCs might actually have to be duplicated to provide customized routing of OS/DA traffic and whether there is any realistic chance that the incremental LCC's needed would exhaust the resources of Ameritech's switches.

Finally, Ameritech attempts to avoid its obligation to provide customized routing by making the generalized claim that "there are real problems associated with uniquely routing OS/DA traffic in certain witches, absent special construction work to expand or update the capacity of those switches." Amer. Ex.10.1, p. 6 (Kocher Supplemental Rebuttal Testimony). That assertion is not enough. As shown by the FCC rules quoted above, it is not sufficient for Ameritech merely to claim that a request for customized routing will require some development or network modifications -- and without any evidence whatsoever as to the magnitude of the work involved. Merely saying there are "real problems" cannot satisfy Ameritech's burden of proof In short, Ameritech must

make customized routing of OS/DA available on a "standard offer" basis in connection with resale.

(3) Other. Non-Line Class Code Solutions to Customized Routing

The foregoing discussion all concerns the use of line class codes to provide customized routing. But AT&T and Staff have shown there are other solutions, in particular the use of AIN triggers in the switch to obtain routing information from an external data base. As Staff has noted, "this routing function could be provided by Ameritech's AIN facilities and without need for trigger access by the new LEC." Staff Ex. 3.03, p. 14 (Gasparin Supplemental Direct Testimony).

Ameritech has responded by saying that it has made its AIN service creation and service capabilities available to other carriers who can develop their own AIN solutions if they want. Amer. Ex. 5.2, p. 2 (Heinmiller Supplemental Rebuttal Testimony). That offer rings hollow. First, a CLEC would prefer to receive meaningful information about the LCC solution before it undertakes to deal with Ameritech's AIN operation. Second, the fact is that the availability of Ameritech's AIN capabilities to other carriers remains an open issue, as Staff witness Craves recognized. Staff Ex. 7.00, pp. 9-12 (Graves Direct Testimony). Ameritech, in other words, has not shown why, if it is unwilling to make a LCC-based solution available as a standard offer, it cannot make customized routing available to CLECs using AIN.

IV. AMERITECH HAS NOT DEMONSTRATED THE ABILITY OR WILLINGNESS TO PROVIDE ACCESS TO POLES, DUCTS, CONDUITS AND RIGHTS-OF-WAY CONSISTENT WITH THE REQUIREMENTS OF SECTION 271(C)(2)(B)(iii).

Under Section 271(c)(2)(B)(iii), for so long as Ameritech refuses to permit access to its structure in accordance with Section 224 (i.e., in generally the same manner that the structure is available for its own local operations), Ameritech remains unable to fulfill its checklist obligations. The Hearing Examiner recognized that "unforeseen problems" would potentially create a discriminatory environment to competing entrants. Proposed Order at 33. In fact, a number of problems plague AT&T's efforts to gain competitive access to Ameritech's poles, ducts, conduits and rights-of-way. Moreover, it is likely that additional and substantial "unforeseen" problems remain for the future.

Ameritech's first supplemental witness in this area, Ramont Bell, testifies that this area of inquiry "should not be at all controversial," and that the Commission should "not be concerned" with the access Ameritech is providing to its structure (Amer. Ex. 6.2, pp. 2-3, Bell Supplemental Testimony). The genesis for Ameritech's perspective seems to be its focus on the past, rather than the mandate of Section 271 to emphasize the present and future conditions of competition, In this regard, Mr. Bell asks the Commission to recognize Ameritech's track record for provision of access to carriers and CATV providers "since divestiture." Id. at 2.[12] AT&T has demonstrated that it would be erroneous to undertake such a retroactive approach. AT&T's witness, William G. Lester,

[12] Even if the Commission was inclined to accept Ameritech's invitation, it would be important to consider the recent opinion from the Ohio Public Utilities Commission in Case No. 96-1027-TP-CSS, wherein Ameritech was found to be in violation of Ohio utility laws which specify the manner in which competing carriers must be permitted to attach to utility poles. The Ohio PUC

testified that "Ameritech has never before had to cope with the nature and volume of requests for [structure] which it is currently experiencing (and which it will experience in greater quantities in the near future)." AT&T Ex. 7. I, p. 3 (Lester Supplemental Testimony).

The fundamental problem is the absence of completed "structure access guidelines," which are supposed to be negotiated by Ameritech and AT&T pursuant to their Illinois Interconnection Agreement. Mr. Bell testified that Ameritech has published its own structure access guidelines (Amer. Ex. 6.2, p. 6, Bell Supplemental Testimony), but Mr. Lester explained that these unilateral guidelines are not binding on any attaching third party. Indeed, Ameritech and AT&T remain significantly apart on their negotiations regarding many structure access key issues, including, (i) decidii whether AT&T's own personnel may assist in the "make ready" and other labor-intensive work to expedite the access process; (ii) establishing disaster recovery procedures; (iii) determining a methodology for cost-sharing when other parties attach to structure for which AT&T has paid the make ready costs; (iv) establishing rates to be charged in connection with survey and map preparation, and labor costs for responding to AT&T requests. AT&T Ex. 7.1, pp. 8-10 (Lester Supplemental Testimony). The Commission Staff has analyzed Ameritech's latest proposal for structure access guidelines, and Mr. Gasparin concludes unequivocally that Ameritech's guidelines are "discriminatory to new entrants." Staff Ex. 3.03, p. 1. (Gasparin Supplemental Testimony). Mr. Gasparin highlights at least six ways

determined that Ameritech's practice was to afford preferential treatment to its affiliated CATV company, to the competitive detriment of other attaching parties.

in which Ameritech would make access to structure inferior, and thereby discriminatory, for competing carriers. Id. at 2-l.

AT&T agrees with the Staff's conclusion that Ameritech is creating substantial time delays and costs for AT&T throughout the structure access process. Ameritech has refused to commit to timelines related to when structure would be "made ready" after an appropriate request. In this way, AT&T's requests are left to Arneritech's mercy, with the effect that AT&T is unable to efficiently perform preparatory work. AT&T Ex. 7.1, pp. 5-6 (Lester Supplemental Testimony). There is also an issue of how Ameritech will process orders that are typically handled on a first-in-time basis, No procedure is in place to prevent Ameritech from "sitting" on an AT&T order for a prolonged period. Id. at 9.

AT&T has encountered other delays and hurdles in its requests for access. Mr. Lester testified to the importance of being provided with both the location and the capacity of structure in Illinois whenever it places a request for access. o often, Ameritech has informed AT&T only about the location of structure, and once AT&T has begun routing and other preparatory work, Ameritech has advised AT&T that there is no capacity remaining in the structure. Id. at 4. Arneritech's new witness on this topic, Gerald Agnew, has responded that it would be impractical to provide this dual information because it would inexplicably require a review of the records "for the entire Chicago area." Amer. Ex. 13.1, p: 10 (Agnew Supplemental Testimony). However, AT&T's requests for structure are made for specific areas based on particular Ameritech service offices -- not an enlarged city-tide basis.

The evidence also demonstrates that Ameritech creates unfair hurdles for CLECs by prohibiting comparable access to its maps and records regarding structure claiming that

portions are proprietary. AT&T has o&red to sign appropriate confidentiality agreements so that AT&T will have access to the same information that is available to Ameritech about the location and capacity of its structure. AT&T Ex. 7.1, p. 4 (Lester Supplemental Testimony). Ameritech has refused to give AT&T access to its maps and records on the same basis that it affords itself instead making its own unilateral decisions as to what will be withheld from AT&T. Amer. Ex. 13.0, p. 8 (Agnew Supplemental Testimony). Clearly, a CLEC is disadvantaged if its *engineers* are not able to consider the same information that Ameritech's own personnel are provided.

V. INTERIM NUMBER PORTABILITY SHOULD BE PROVIDED TO AT&T IN TEE MOST EFFECTIVE, COST-EFFICIENT, AND TECHNICALLY FEASIBLE MANNER AVAILABLE -- ROUTE INDEXING.

Notwithstanding the conclusion in the Proposed Order that Ameritech has satisfied its obligations in the area of interim number portability ("INP") in Illinois, AT&T respectfully submits that new and updated information make it appropriate for the Hearing Examiner to reconsider this position. The trend across the nation is toward recognition of the undeniable benefits of the route indexing option for INP. Route indexing-portability hub ("RI-PH") has been recognized as a benefit not only for local competitors, but also for local customers. As demonstrated in the Supplemental Direct Testimony of AT&T's witness Judith Evans, RI-PH is a necessary INP option to effectively foster a competitive local environment pursuant to Section 271(c)(2)(B)(xi).

Through the supplemental testimony of Ms. Evans, the record now reflects that three states have recently ordered incumbent LECs to provide RI-PH to satisfy INP

obligations. In California, an arbitrator has ordered both Pacific Bell and GTE to offer RI-PH. Likewise, the Indiana Utility Regulatory Commission has required Ameritech and GTE to extend the RI-PH option to CLECs, and GTE has also been ordered to make RI-PH available in Florida. These new developments bring the total to approximately 25 states where RBOCs will now be offering the RI-PH option to new entrants." AT&T Ex. 8, p. 3 (Evans Supplemental Testimony). Also, Sprint Local has now agreed to provide RI-PH to AT&T on a national basis. Id.

The technical feasibility of RI-PH is well-recognized. Indeed, Ameritech does not claim that it cannot be provided. RI-PH will certainly promote competition and the *needs* of certain customers better than any other INP option. Ms. Evans explains in her testimony how RI-PH dramatically reduces entry costs because it eliminates the need for capital outlays such as new trunks which are required under the DID option (trunks that will be rendered obsolete once permanent number portability is in place). Id. at 4. For AT&T, the savings in Illinois alone is projected near $1 million. The DID option, which Ameritech is trying to force on AT&T, is inferior in quality and cost to RI-PH, which permits number portability traffic to ride along with other types of traffic on existing facilities. Id. at 5. Combing multiple traffic on single trunks yields substantial efficiencies and cost savings as compared to installing dedicated INP traffic trunks to each Ameritech end office. Plus, RI-PH uniquely places the local network in a state of readiness for conversion to permanent number portability ("PNP"), because RI-PH closely resembles the PNP environment. Id. at 6.

[13] US West and BellSouth have agreed to provide RI-PH. In addition, since the bearing, AT&T has learned tbat the States of Kansas and Missouri have ordered that RI-PH be made available.

In his supplemental testimony, Mr. Kocher claimed that RI-PH is not more efficient than other INP techniques because the "same network efficiencies" may be realized with remote call forwarding ("RCF"). Amer. Ex. 10.1, p. 10 (Kocher Supplemental Testimony). However, the only comparison that is relevant and has ever been made in these proceedings is between RI-PH and DID. AT&T has, in fact, stated that it would be satisfied with RCF, only for small business and residential customers, because of the well-known incoming call volume limitations.[14] Contrary to Mr. Kocher's suggestion, moreover, AT&T "network constraints" that make RI-PH a better INP method than RCF -- RI-PH is a superior option in its own right. RCF is suitable to AT&T for the limited job that RCF is capable of performing. AT&T intends to service the full range of customers, however, and RCF does not work for larger customers. Ameritech's suggestion that RI-PH should not be implemented in light of the "short period of time" before permanent portability will be present in Illinois is also misguided. Id. at 10. The only relatively near-term PNP dare in Illinois is for Chicago. The rest of the state is not slated for PNP until mid-1999, at the earliest. Thus, the INP environment will be present for some time in Illinois, and it is important to ensure that the most feasible INP option is available for CLECs in the meantime.

Finally, it is not the case that RI-PH is "onerous" to implement because "extensive translations" are required. Id. Mr. Kocher does not offer any explanation of how translation and technical work for RI-PH is any more burdensome than that required to

[14] The other shortcoming of RCF is that it requires "shadow numbers." In other words, if RCF is the only option available it will exacerbate the current shortage of telephone numbers by assigning two numbers for every single ported customer. Whenever possible, AT&T remains committed to conserving the phone numbers in Illinois.

establish the DID option. His testimony actually contradicts Ameritech's own Implementation Team representatives who have long touted the efficiencies of RI-PH:

> It is Ameritech's opinion that [RI-PH] offers a viable, proven and less burdensome near term alternative for number portability, and *one* which does not involve a lot of throw away development and implementation costs, onerous work-arounds, multiple database dips, and unknown feature interactions. . . .

Ameritech Proposal for Interim Number Portability Solution at 4.

The FCC has specifically provided that "the 1996 Act requires that, . . when a number portability method that better satisfies the requirements of section 251(b)(2) than currently available measures becomes technically feasible, LECs must provide number portability by means of such method." Id. At 8412 (¶115). As discussed above, RI-PH is uniquely capable of to enabling AT&T to better serve all types and sizes of customers in a manner which is cost effective for AT&T, Ameritech and consumers. Most importantly, the inherent limitations of the alternative INP methods can all be eliminated by implementing the RI-PH option. For these reasons, RI-PH should be made available as an INP solution in Illinois.

CONCLUSION

For the foregoing reasons, AT&T respectfully requests that the Hearing Examiners re-affirm the conclusion of the Proposed Order that Ameritech has not met its §271 checklist requirements.

Respectfully submitted, .

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